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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,177	10/25/2004	Andrew David Cook	102792-302(ANP)	7610

27389 7590 02/08/2007  
NORRIS, MCLAUGHLIN & MARCUS  
875 THIRD AVE  
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NEW YORK, NY 10022

EXAMINER
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DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/501,177	COOK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/12/04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

***Specification***

1. The disclosure is objected to because of the following informalities: It is suggested that section headers (i.e., Field of the Invention; Summary of the Invention, Brief Description of the Drawings, Detailed Description of the Invention, etc.) be added into the appropriate portions of the specification.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 10, the phrase "and the like" (see line 16 in claim 1 and line 15 in claim 10) renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d). In addition, for both claims in the same lines as above, it is suggested that "or" be deleted. The Markush language of scouring agent should be followed by "and" and not "or", see MPEP 2173,05(h)(I). Furthermore, it is suggested that the Markush languages for the "organic abrasive materials" and "natural materials" be deleted from the claims and re-written as dependent claims.

Claims 6 and 15 lack support for "thickening agent" with respect to claims 1 and 18, respectively, wherein said claims recite "thickener".

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In claims 8 and 17, the terms "the cleaning product" (see line 6 in both claims) and "the treated surface" (see last line in both claims) lack antecedent basis in the claims.

Claims 2-5, 7, 9, 11-14, 16 and 18, being dependent upon claims 1 or 10, are rejected as well.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 8-10, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon et al. (US Patent No. 5,763,332), hereinafter "Gordon".

Gordon teaches an article suitable as a wipe for cleaning hard surfaces, the article comprising polyethylene film treated on one side with an emulsion, the treated film is located between a tissue paper substrate and a nonwoven substrate that is also treated on one side with the emulsion and thus, the article has the emulsion sandwiched between the polyethylene film and the nonwoven substrate, the emulsion comprising 0.10 wt% C-12 amine oxide (a nonionic surfactant) and the balance water. The article is wetted on only one side when subjected to shear forces, the remaining dry side (i.e., tissue side) can absorb liquid remaining after use (see Example V, col. 24, line 57 to

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col. 25, line 31; col. 23, line 65 to col. 24, line 8). The polyethylene film is plied to the tissue by means of glue (see col. 24, lines 40-41). Gordon teaches the limitations of the instant claims. Hence, Gordon, anticipates the claims.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2, 4, 6, 7, 11, 13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon as applied to the above claims.

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Gordon teaches the features as described above. In addition, Gordon teaches that the emulsion can include minor amounts of other materials such as polydimethylsiloxanes (see col. 13, lines 6-17), thickeners in the range from about 0.05 to about 0.5% of the water phase (see col. 14, lines 25-36), anionic surfactants as well as nonionic surfactants (see col. 17, lines 42-560, and solvents such as ethanol (see col. 14, lines 47-59). In Example V, ethanol is present in an amount of 8.7 wt% (see col. 25, lines 10-15). Gordon, however, fails to specifically disclose an article comprising polydimethylsiloxanes, anionic and nonionic surfactants, and solvents in amounts as those recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the portion of the prior art's range (i.e., polydimethylsiloxanes, anionic and nonionic surfactants) which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the prima facie case of obviousness. See *In re Boesch*, 627 F.2d 272,276,205 USPQ 215,219 (CCPA 1980). See also *In re Woodruff* 919 F.2d 1575, 1578,16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454,456,105 USPQ 233,235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges "overlap or lie inside ranges disclosed by the prior art", see *In re Wertheim*, 541 F.2d 257,191 USPQ 90 (CCPA 1976; *In re*

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*Woodruff*; 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.051.

With respect to the proportions of the solvent, a *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties, see *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985). See MPEP 2144.051.

7. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Policicchio et al. (WO 00/27271), hereinafter "Policicchio".

Policicchio teaches a hard surface cleaning composition for use with cleaning pads and/or cleaning implements comprising, by weight of the composition: optionally, from about 0.001% to about 0.5% by weight of surfactant, preferably selected from the group consisting of alkylpolysaccharides, alkyl ethoxylates (both being nonionic surfactants), alkyl sulfonates (an anionic surfactant), and mixtures thereof; optionally, from about 0.25% to about 7% by weight of organic solvent; optionally from about 0.01% to about 1% by weight of mono- or polycarboxylic acid; optionally from about 0.001% to about 0.1% by weight of thickening polymer; preferably at least 80% by weight of aqueous solvent system; optionally, suds suppressor which includes polydiorganosiloxanes (see page 26, lines 1-12) in amounts of 0.00125 % by weight (see page 126, first Table) ; and optionally, a detergent adjuvant like builders (see page 3, line 8 to page 4, line 7). The cleaning pad comprises at least one absorbent layer,

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multiple planar surfaces and at least one adhesive scrubbing strip, preferably comprising nylon, polyester, polypropylene, abrasive material and mixtures thereof (see page 4, lines 8-36). The abrasive materials include silicon carbide and/or aluminum oxide and/or calcium carbonate (see page 61, lines 27-29). The hard surface cleaning composition can be used in a pre-moistened wipe (see page 76, lines 3-5), wherein the wipe can consist of one or more layers optionally including a scrub layer for maximum cleaning efficiency (see page 79, lines 12-13). In a preferred embodiment, the wipe consists of a multi-laminate structure comprising a pre-moistened outer layer, an impermeable film or membrane inner layer and second outer-layer which is substantially dry (see page 89, lines 28-32). The use of a multi-laminate structure can be highly desirable in that it allows for a dry buffing step, aimed at substantially removing most of the liquid remaining on the glass following application of the wet side of the pre-moistened wipe on the glass (see page 90, lines 3-5). Policicchio, however, fails to specifically disclose the amount of surfactant, polydiorganosiloxanes, abrasive, thickening polymer, acid and solvent in amounts as those recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the portion of the prior art's range (i.e., surfactant, polydiorganosiloxanes, abrasive, thickening polymer, acid and solvent) which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of



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unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 627 F.2d 272,276,205 USPQ 215,219 (CCPA 1980). See also *In re Woodruff* 919 F.2d 1575, 1578,16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454,456,105 USPQ 233,235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges "overlap or lie inside ranges disclosed by the prior art", see *In re Wertheim*, 541 F.2d 257,191 USPQ 90 (CCPA 1976; *In re Woodruff*; 919 F.2d 1575,16USPQ2d 1934 (Fed. Cir. 1990). See MFEP 2131.03 and MPEP 2144.051.

### ***Conclusion***

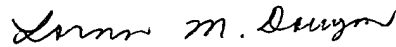
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Lorna M. Douyon  
Primary Examiner  
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